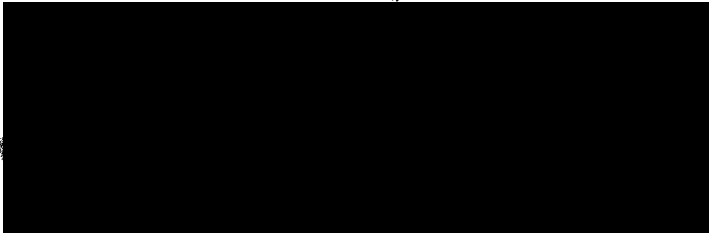




U.S. Citizenship
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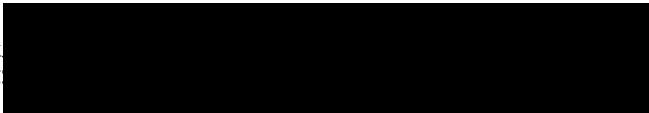


FILE: [REDACTED]
SRC 00 245 50861

Office: TEXAS SERVICE CENTER Date:

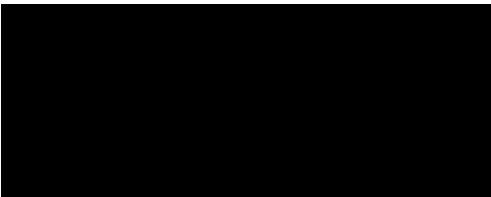
AUG 02 2004

IN RE: Petitioner:
Beneficiary



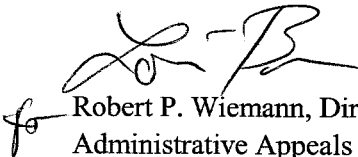
PETITION: Petition for Alien Worker as a Skilled Worker or Professional Pursuant to Section 203(b)(3)
of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


for Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

In order properly to file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after the service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The director issued the decision on May 3, 2001. The director properly gave notice to the petitioner that it had 33 days to file the appeal. Although counsel dated the appeal June 5, 2001, it Citizenship and Immigration Services (CIS) received the appeal on June 19, 2001, or 47 days after the decision was issued. Therefore, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official who made the last decision in the proceeding has jurisdiction over a motion, in this case, the service center director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

The appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.